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# RATIONALIZATION OF THE WORK OF THE COMMISSION

## Letter dated 10 February 2000 from the Permanent Representative of Malaysia to the United Nations Office at Geneva addressed the Chairperson of the Commission on Human Rights

I have the honour to refer to your letter of 4 February 2000* regarding time limits for special rapporteurs, which was made in response to my own of 2 February 2000 regarding the same.

It is with a sense of regret that I take note of the arguments set forth in the letter and would like to respond thus:

(a) My initial letter referred to the entirety of paragraph 7 (ii) of the statement by the Chair of the fifty-fifth Commission on Human Rights adopted on 29 April 1999.** This was consciously done to emphasize one significant point, namely that the main principle behind the

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* Reproduced in document E/CN.4/2000/122.

** The statement in question appears in the report of the Commission on its fifty-fifth session (E/1999/23-E/CN.4/1999/167, para. 55).

paragraph is that, notwithstanding the measures pertaining to the transitional period, there should be no extension of the tenure of special rapporteurs who have served for more than six years. Therefore, the transition measure must be implemented within the frameworks of this principle. As such, we believe that a selective reference only to the transition period, as per your letter, does not give a true picture of the situation at hand.

(b) Your understanding that current office-holders, i.e. those who have served more than 3 years when their mandates expire, may serve for a maximum of 3 further years means that in principle, special rapporteurs, regardless of the length of their tenure, for example 9 or 12 years, are still eligible for an extension of 3 years or one full term. This hardly constitutes a transition measure by any stretch of the imagination.

(c) With regard to the issue of the Commission wishing to adopt "more qualified or restrictive transitional arrangements", we believe that such a qualification indeed does appear, again by virtue of the first sentence of paragraph 7 (ii) of the aforementioned statement which sets out clearly the principle behind the paragraph, to wit, there should be no extension of the tenure of special rapporteurs who have served more than six years. Therefore, the issue of qualifications being retroactively implied does not arise at all.

At this juncture, I would like to raise some issues which my delegation would have raised, had we been given the opportunity to do so.

(a) We have no wish to reopen all aspects of the 29 April statement only to have a clarification on one issue appearing in the statement;

(b) We have no intention of having the transition measure being retroactively applied. Therefore, special rapporteurs who have served more than six years but who have already had their tenure extended will not be affected. In this regard, we would concur with the assessment made at the previous Bureau meeting that in practical terms, there would be three special rapporteurs who already served six years due to have their mandate renewed at the next session of the Commission;

(c) We believe that measures adopted within the framework of enhancing the effectiveness of the mechanisms of the Commission on Human Rights should be objectively applied, without recourse to arbitrary decisions. In this regard, we view with concern that if an interpretation of the transition measures had been communicated to the special rapporteurs themselves, the interpretation had not been given the stamp of approval by the membership of the Commission on Human Rights.

In the same vein, my Government views with great concern the fact that your letter to the effect that "I did not believe the Malaysian Interpretation would be shared by all delegations nor did I consider it appropriate for the working group to reopen language agreed by consensus at the Commission" prejudges discussions which the working group might have had in this regard. In this connection, notwithstanding the objections of certain delegations to the Malaysian Interpretation, our informal contacts with certain other delegations indicate significant support for our position. That the letter was written before the beginning of the third session of the working group on enhancing the effectiveness of the mechanisms of the Commission on Human

Rights has amplified this concern. Furthermore, the blank refusal to even discuss this matter of concern to a Member State in informal meetings of the working group goes against the spirit of goodwill in negotiations. This does not bode well for the achievement of substantial and concrete results by the working group, an aim to which all delegations are committed.

As per our previous communications, I would again request the secretariat to have this letter circulated as a document of the working group and as an official document of the fifty-sixth session of the Commission.

(Signed) M. HAMIDON ALI
Ambassador
Permanent Representative

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